

ORDINANCE 2010-11

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, AMENDING CHAPTER 11 OF THE
CODE OF ORDINANCES BY ESTABLISHING ARTICLE 1
FOR EXISTING CODE PROVISIONS RELATED TO JUNKED,
WRECKED, STOLEN OR ABANDONED PERSONAL
PROPERTY; FURTHER ESTABLISHING ARTICLE II
"ABANDONED REAL PROPERTY", TO PROVIDE FOR
REGISTRATION, MONITORING AND UPKEEP OF
MAINTENANCE OF ABANDONED REAL PROPERTY;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CODIFICATION; AND PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, Chapter 11 of the Code of Ordinances regulates junked, wrecked, stolen or
abandoned property; and

WHEREAS, the Town Commission has determined that it is in the best interest of the
Town to establish separate Articles within Chapter 11 to address both personal and real property;
and

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at duly noticed
hearings on June 16, 2010 and July 21, 2010, and recommended its adoption; and

WHEREAS, the Town Commission desires to provide for registration of abandoned and
foreclosed homes, and for monitoring and maintenance of abandoned real property; and

WHEREAS, the Town Commission hereby finds and declares that adoption of this
Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. The preceding "Whereas" clauses are ratified and incorporated as the
legislative intent of this Ordinance.

ORDINANCE 2010-11

SECTION 2. Section 11-1 through 11-8 shall hereinafter be included in and identified under **ARTICLE 1. "JUNKED, WRECKED, STOLEN OR ABANDONED PERSONAL PROPERTY."**¹

SECTION 3. **ARTICLE II. "ABANDONED REAL PROPERTY,"** of Chapter 11 of the Code of Ordinances is established to read as follows²:

ARTICLE II. ABANDONED REAL PROPERTY

Sec. 11-21. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandoned real property means any property that is vacant and is under a current notice of default and/or notice of mortgagee's sale by the lender or a pending tax assessors lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Accessible means that a property or structure, or any portion thereof, can be illegally entered or accessed by the public at large including through a compromised/breached gate, fence, wall, door, window, roof, etc.

Enforcement officer means any fulltime law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector employed within the Town.

Evidence of vacancy means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

¹ Note to codifier: Sections 11-9 through 11-20 are reserved for Article 1.

² Additions to existing text are shown in underline. Deletions are shown in ~~strike through~~.

ORDINANCE 2010-11

Out-of-area mortgagee means any person, company, or other organization who holds a mortgage on real property located within the Town, whose place of business is located outside of Palm Beach, Broward or Miami-Dade Counties.

Property management company means a local property manager, property maintenance company or similar entity located within Palm Beach, Broward or Miami-Dade Counties, responsible for the maintenance of abandoned real property.

Secure manner means maintenance of a structure such that it is not accessible and shall include, but is not limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding of the window.

Vacant means any building/structure that is not legally occupied.

Sec. 11-22. Registration.

(a) Any mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection, register the property with the Director of Development Services, or his or her designee, on forms provided by the Town. A registration is required for each vacant property.

(b) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his or her designee on a monthly basis until (1) the mortgagor or other party remedies the default, or (2) the property is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, register the property with the Director of Development Services, or his or her designee, on forms provided by the Town.

(c) Registration pursuant to this Article shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee, facsimile number and e-mail address and, in the case of an out-of-area mortgagee, the local property management company responsible for the security and maintenance of the property.

(d) An annual registration fee in the amount of one hundred fifty dollars (\$150.00), per property, shall accompany the registration form(s). Registrations shall be renewed annually so long as the property remains vacant.

ORDINANCE 2010-11

(e) This Article shall also apply to properties that have been the subject of a foreclosure proceeding where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(f) Properties subject to this Article shall remain under the annual registration requirement, and all security and maintenance standards established within this Article, as long as they remain vacant.

(g) Any mortgagee and/or property owner of record that has registered a property under this Article must report any change of information contained in the registration within ten (10) days of the change.

Sec. 11-23. Maintenance requirements.

(a) Properties subject to this Article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, fliers, notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(b) The property shall be maintained free of graffiti or similar markings by removal or by painting with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yard landscaping shall be maintained in accordance with the Town Code applicable at the time registration was required.

(d) Maintenance may include, but is not limited to, watering, irrigation, cutting, and mowing of required landscape and removal of all trimmings.

(e) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. All pools and spas shall comply with the enclosure requirements of the Town Code.

(f) All properties, including pools, spas, ponds and buildings shall be maintained free of stagnant water, rubbish, debris, and all other objectionable, unsightly or unsanitary matter so as to prevent any condition wherein a property is or may reasonably become infested with or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threaten or endanger the public health, safety, or welfare, or may reasonably cause disease or adversely affect and impair the economic welfare of adjacent property.

ORDINANCE 2010-11

Sec. 11-24. Security requirements.

(a) Properties subject to this Article shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) If the property is owned by an out-of-area mortgagee, a local property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this Article, and any other applicable laws.

(c) The property shall be posted with the name and the twenty-four (24) hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language, filling in the blanks with the appropriate information:

THIS PROPERTY IS MANAGED BY: _____
TO REPORT PROBLEMS OR CONCERNS CALL: _____

The posting shall be placed in a visible location on the interior of a window, or secured to the exterior of the building/structure facing the street to the front of the property or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior postings shall be constructed of and printed with weather-resistant materials.

(d) The mortgagee, property owner of record, and/or the local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this Article. Upon the request of the Town, the inspection reports shall be made available to the Director of Development Services, or his or her designee.

Sec. 11-25. Enforcement; opposing, obstructing enforcement officer.

(a) Failure of the mortgagee, property owner of record, and/or the local property management company, to register, inspect, properly maintain and/or secure the property or otherwise comply with this Article may result in a violation of the Town Code and the issuance of a citation or notice of violation/notice of hearing by an enforcement officer. Pursuant to a finding and determination by the Town's special magistrate, the Town may take the necessary action to ensure compliance with this Section including, if directed by the special magistrate, remedial action to correct the violations at the expense of the property owner.

(b) Any person who opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer in the discharge of duties as provided in this Article, shall be punished as provided for within Section 1-12.

ORDINANCE 2010-11

(c). The penalties for violations of this Article shall be pursuant to Florida Local Government Code Enforcement Boards Act, as set forth in Florida Statutes Section 162.09, as amended from time to time, and the minimum penalties shall be as follows.

(1) First violation . . . \$250.00.

(2) Second violation within 12 months of adjudication of first violation . . . \$500.00.

Sec. 11-26. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this Article.

Sec. 11-27. Additional authority.

The Director of Development Services, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this Article, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

Sec. 11-28. Adoption of rules; Expenditure of funds; Declaration of Town purpose.

The Town Manager, consistent with his/her duties and authorities under the Town Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend Town funds as may be reasonably necessary and available to carry out the terms of this Article, the expenditure of such funds being declared a proper Town purpose.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconditional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Codification. This Ordinance shall be codified.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

ORDINANCE 2010-11

SECTION 7. Adoption

Passed on the first reading, this ____ day of _____, 2010.

Passed and adopted on the second reading, this ____ day of _____, 2010.

Mayor Roseann Minner

Attest:

Town Clerk, June White

(CORPORATE SEAL)

Approved as to form:

Susan L. Trevarthen, Town Attorney